

STATE OF NEW JERSEY
DEPARTMENT OF LAW & PUBLIC SAFETY
DIVISION OF CONSUMER AFFAIRS
NEW JERSEY BOARD OF REAL
ESTATE APPRAISERS

IN THE MATTER OF THE LICENSE OF	:	
	:	Administrative Action
ROBERT J. MCGUIRE	:	
License # 42RA00420800	:	FINAL ORDER
	:	OF DISCIPLINE
TO ENGAGE IN THE PRACTICE OF	:	
REAL ESTATE APPRAISING IN	:	
THE STATE OF NEW JERSEY	:	

This matter was opened to the New Jersey Board of Real Estate Appraisers (the "Board") upon receipt of information which the Board has reviewed and upon which the following findings of fact and conclusions of law are made:

1. Robert J. McGuire ("Respondent") is State Licensed Real Estate Appraiser in the State of New Jersey and has been a licensee at all times relevant hereto.

2. Pursuant to N.J.S.A. 45:14F-18 and N.J.A.C. 13:40A-5.3, all licensed and certified real estate appraisers are required to complete all continuing education requirements established by "The Real Property Appraiser Qualification Criteria and Interpretations of the Criteria" promulgated by the Appraisal Qualifications Board of the Appraisal Foundation (the "AQB"). The AQB requirements are incorporated by reference in

the Board's regulations. For the two year period between January 1, 2010 and December 31, 2011, the AQB Qualification Criteria mandated that appraisers complete a minimum of twenty-eight (28) class hours of approved continuing education.

3. Pursuant to N.J.A.C. 13:40A-5.4, all licensed and certified appraisers are required to complete a seven hour National Update Course on the Uniform Standards of Professional Appraisal Practice ("USPAP"), or its equivalent, at least once every 24 months. The AQB Qualification Criteria similarly mandate that appraisers must successfully complete the seven hour USPAP Update Course, or its equivalent, every two calendar years.

4. Pursuant to N.J.A.C. 13:40A-5.8, licensees or certificate holders are required to maintain documentation for at least four years of continuing education hours completed in order to verify program attendance and/or activity completion.

5. On or about December 19, 2011, Respondent completed and submitted an online biennial license renewal form, for the period January 1, 2012 through December 31, 2013, and Respondent's license was then renewed through December 31, 2013.

6. Respondent was asked on the biennial renewal

application whether Respondent "completed the continuing education requirement during the past two years," referring to the biennial renewal period of January 1, 2010 through December 31, 2011. The renewal application included specific instructions regarding this question, which read:

As a condition of renewal, licensees are required to obtain at least 28 credit hours of approved continuing education for each biennial renewal period subsequent to licensure/certification or 14 hours of continuing education if initially licensed or certified in the first six months of the second year. If initially licensed or certified during the last six months of the second year, no continuing education is required. If you are exempt from this requirement for this renewal period only, please answer "yes" to this question. Credits may not be carried over to another renewal period.

Respondent answered "yes" to the question.

7. Respondent was asked on the biennial renewal form whether Respondent successfully completed the seven hour National USPAP Update Course, or its equivalent, during the past two years, referring to the biennial period of January 1, 2010 through December 31, 2011. The renewal application included specific instructions regarding this question, which read:

As a condition of renewal, licensees must successfully complete the seven-hour National USPAP Update Course, or its equivalent, at a minimum of every two years. Equivalency shall be determined through the AQB Course Approval Program or by an alternate method established

by the AQB.

Respondent answered "yes" to this question.

8. Respondent certified, when submitting the renewal application, that all of the information on the renewal form was true and complete to the best of Respondent's knowledge, and acknowledged awareness that if any of the information submitted was willfully false, Respondent would be subject to punishment and/or disciplinary sanction to include license suspension or revocation or the imposition of civil penalties as provided by law.

9. After January 1, 2012, the Board commenced a continuing education audit, asking a random sampling of its licensees to submit documentation to verify completion of required continuing education. Respondent was selected for inclusion within the continuing education audit.

10. On or about February 22, 2012, all licensees selected for inclusion in the audit were sent a notice, by regular mail, addressed to the address of record that the licensee maintained with the Board, advising of the need to supply copies of documentation maintained to verify continuing education hours claimed.

11. In response to the audit, Respondent supplied documentation verifying Respondent's completion of two (2) hours of approved continuing education. Respondent indicated he was attempting to locate additional documentation and that his papers and computer were damaged in a flood. Respondent indicated that copies would be forwarded to the Board when located. The Board received no additional documentation.

CONCLUSIONS OF LAW

Respondent failed to demonstrate, to the satisfaction of the Board, completion of the required twenty-eight (28) hours of approved continuing education for the two year period between January 1, 2010 and December 31, 2011. While Respondent was able to verify two (2) hours of approved continuing education, Respondent failed to demonstrate completion of twenty-six (26) hours of required continuing education. The Board therefore found Respondent in violation of N.J.A.C. 13:40A-5.3, which in turn subjected Respondent to sanctions pursuant to N.J.S.A. 45:1-21(e) and 45:1-21(h).

Respondent failed to demonstrate, to the satisfaction of the Board, completion of a seven hour USPAP Update Course, or its equivalent, for the two year period between January 1, 2010

and December 31, 2011. The Board therefore found Respondent in violation of N.J.A.C. 13:40A-5.4, which in turn subjected Respondent to sanctions pursuant to N.J.S.A. 45:1-21(e) and 45:1-21(h).

Based on the above findings and conclusions, the Board further found that Respondent falsely certified on the renewal application that all responses to all questions that were asked on that application were true. By doing so, the Board found that Respondent engaged in misrepresentation, and was therefore subject to sanction pursuant to N.J.S.A. 45:1-21(b).

DISCUSSION

Based on the foregoing findings and conclusions, a Provisional Order of Discipline ("POD") was entered on December 20, 2012 provisionally suspending Respondent's license to practice real estate appraising in the State of New Jersey and provisionally imposing a civil penalty in the amount of two thousand five hundred dollars (\$2,500). Copies were served upon Respondent via regular and certified mail at Respondent's address of record. The Provisional Order was subject to finalization by the Board at 5:00 p.m. on the 30th day following entry unless Respondent requested a modification or dismissal of

the stated Findings of Fact or Conclusions of Law by setting forth in writing any and all reasons why said findings and conclusions should be modified or dismissed and submitting any and all documents or other written evidence supporting Respondent's request for consideration and reasons therefor.

In response to the Provisional Order, Respondent provided an additional course completion certificate for the seven (7) hour course "Fannie Mae Form 1004MC, HVCC, & More" completed on January 12, 2010. Respondent indicated he was unable to obtain additional documentation for the January 1, 2010 - December 31, 2011 biennial period, took responsibility for failing to keep accurate records, and promised to correct the issue going forward. Respondent simultaneously submitted course completion certificates for nineteen (19) hours of continuing education, including a seven (7) hour USPAP course, all of which were completed in January 2013, more than one year late.

Respondent's submissions were reviewed by the Board, and the Board determined that further proceedings were not necessary. Respondent completed nine hours of continuing education during the biennial period of January 1, 2010 through December 31, 2011. Inasmuch as Respondent has recently

completed nineteen hours to cure the deficiency, the Board has determined that suspension is no longer warranted. However, Respondent did not satisfy the continuing education requirement in a timely fashion, and falsely certified continuing education compliance while renewing his license. As such, Respondent is subject to a civil monetary penalty, albeit reduced to reflect the seven hour course that was completed timely.

WHEREFORE, it is on this 18th day of March, 2013


ORDERED that:

1. Respondent is assessed a civil penalty in the amount of two thousand two hundred and fifty dollars (\$2,250). Said penalty is an aggregate penalty, which includes a penalty in the amount of seven hundred and fifty dollars (\$750) for failing to have completed nineteen hours of required continuing education; \$1000 for having provided false answers to two questions on the biennial renewal application (that is, falsely claiming completion of twenty-eight (28) hours of continuing education credit and falsely claiming completion of a seven hour USPAP Update Course, or its equivalent); and \$500 for failing to have completed a seven hour USPAP Update Course, or its equivalent.

Payment shall be made by certified check or money order payable to the State of New Jersey, delivered or mailed to Charles Kirk, Executive Director, State Board of Real Estate Appraisers, P.O. Box 45032, Newark, New Jersey 07101. Payment shall be made no later than 15 days after the date of filing of this Final Order of Discipline. In the event Respondent fails to make a timely payment, a certificate of debt shall be filed in accordance with N.J.S.A. 45:1-24 and the Board may bring such other proceedings as authorized by law.

2. Continuing education hours completed after December 31, 2011 and applied to cure the deficiency from the previous biennial period shall not be used to satisfy the continuing education requirements of the current biennial period. Respondent shall complete an additional twenty-eight hours of continuing education prior to December 31, 2013.

NEW JERSEY STATE REAL
ESTATE APPRAISER BOARD

By: 
John A. McCann
Board President